

IC 9-30-9

Chapter 9. Circuit Court Alcohol Abuse Deterrent Programs

IC 9-30-9-0.5

Applicability after June 30, 2005

Sec. 0.5. After June 30, 2005, this chapter does not apply to a person who:

- (1) holds a commercial driver's license; and
- (2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748).

As added by P.L.219-2003, SEC.8.

IC 9-30-9-1

Application

Sec. 1. This chapter applies to each circuit court that is not authorized to establish an alcohol and drug services program under IC 12-23-14-1 through IC 12-23-14-13.

As added by P.L.2-1991, SEC.18. Amended by P.L.2-1992, SEC.91.

IC 9-30-9-2

Establishment

Sec. 2. The circuit court of a county may establish an alcohol abuse deterrent program after the county fiscal body adopts a resolution approving the program. The program must provide for the treatment of individuals who have been convicted of more than one (1) violation of IC 9-30-5 with disulfiram or a similar substance that the court determines is an effective chemical deterrent to the use of alcohol.

As added by P.L.2-1991, SEC.18. Amended by P.L.2-1992, SEC.92; P.L.40-1994, SEC.4.

IC 9-30-9-3

Application to criminal proceedings; judicial notice; deferred proceedings; order to complete program

Sec. 3. (a) This section applies to a criminal proceeding in which the use or abuse of alcohol is a contributing factor or a material element of the offense.

(b) The court may take judicial notice of the fact that proper medical treatment is likely to decrease the defendant's tendency to engage in antisocial behavior.

(c) Before conviction, the court, with the consent of the defendant and the prosecuting attorney, may conditionally defer the proceedings described in subsection (a) for up to four (4) years. However, a prosecution may not be deferred under this section if:

- (1) the offense involves death or serious bodily injury;
- (2) other criminal proceedings, not arising out of the same incident, alleging commission of a felony are pending against the defendant;

(3) the defendant is on probation or parole and the appropriate parole or probation authority does not consent to the defendant's participation; or

(4) the defendant fails to meet additional eligibility requirements imposed by the court.

(d) The court may order the defendant to satisfactorily complete the program established under section 2 of this chapter if the court makes a determination under subsection (b). The court may impose other appropriate conditions upon the defendant.

As added by P.L.2-1991, SEC.18.

IC 9-30-9-4

Violation of conditions; resumption of proceedings; compliance with conditions; dismissal of charges

Sec. 4. If a defendant violates a condition imposed by the court under section 3 of this chapter, the court may order criminal proceedings to be resumed. If a defendant fulfills the conditions set by the court under section 3 of this chapter, the court shall dismiss the charges against the defendant. However, if:

(1) the defendant was previously charged under IC 9-30-5; and

(2) the previous charges were dismissed under this section;

the individual is not eligible to have subsequent charges under IC 9-30-5 dismissed under this chapter.

As added by P.L.2-1991, SEC.18.

IC 9-30-9-5

Conditionally deferred charges; suspension of driving privileges; ignition interlock device

Sec. 5. (a) If the court enters an order conditionally deferring charges under section 3 of this chapter, the court may do the following:

(1) Suspend the person's driving privileges for at least two (2) years but not more than four (4) years.

(2) Impose other appropriate conditions, including the payment of fees imposed under section 8 of this chapter.

(b) Notwithstanding IC 9-30-6-9, the defendant may be granted probationary driving privileges only after the defendant's license has been suspended for at least one (1) year.

(c) The court may, as an alternative to a license suspension under subsection (a)(1), issue an order prohibiting the defendant from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8. An order requiring an ignition interlock device must remain in effect for at least two (2) years but not more than four (4) years.

As added by P.L.2-1991, SEC.18. Amended by P.L.76-2004, SEC.18.

IC 9-30-9-6

Probation; referral of defendant to program

Sec. 6. If the defendant is convicted in a proceeding described in section 3(a) of this chapter and the court places the defendant on

probation, the court may refer the defendant to the alcohol abuse deterrent program if the court makes a determination under section 3(b) of this chapter.

As added by P.L.2-1991, SEC.18.

IC 9-30-9-7

Referral of defendant to program; suspension of driving privileges; ignition interlock device

Sec. 7. (a) If the court refers a defendant to the program under section 6 of this chapter, the court may do the following:

- (1) Suspend the defendant's driving privileges for at least ninety (90) days but not more than four (4) years.
- (2) Impose other appropriate conditions.

(b) The defendant may be granted probationary driving privileges only after the defendant's license has been suspended for at least thirty (30) days under IC 9-30-6-9.

(c) The court may, as an alternative to a license suspension under subsection (a)(1), issue an order prohibiting the defendant from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8. An order requiring an ignition interlock device must remain in effect for at least two (2) years but not more than four (4) years.

As added by P.L.2-1991, SEC.18. Amended by P.L.76-2004, SEC.19.

IC 9-30-9-7.5

Offenses; operating motor vehicle without ignition interlock device

Sec. 7.5. (a) A person commits a Class B infraction if the person:

- (1) operates a motor vehicle without a functioning certified ignition interlock device; and
- (2) is prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under section 5(d) or 7(d) of this chapter.

(b) A person commits a Class B misdemeanor if the person:

- (1) operates a motor vehicle without a functioning certified ignition interlock device; and
- (2) knows the person is prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under section 5(d) or 7(d) of this chapter.

As added by P.L.76-2004, SEC.20.

IC 9-30-9-8

Program fee; medical fee; indigent defendant

Sec. 8. (a) The court shall order a defendant participating in a program under this chapter to pay an alcohol abuse deterrent program fee or a medical fee, or both, unless the court determines that the defendant is indigent.

(b) An alcohol abuse deterrent program fee ordered under this section may not exceed four hundred dollars (\$400).

(c) A medical fee ordered under this section may not exceed one

hundred fifty dollars (\$150).

As added by P.L.2-1991, SEC.18. Amended by P.L.113-2001, SEC.1.

IC 9-30-9-9

County alcohol abuse deterrent fund

Sec. 9. The county auditor shall establish a county alcohol abuse deterrent fund after a program is established under section 2 of this chapter.

As added by P.L.2-1991, SEC.18.

IC 9-30-9-10

Circuit court; duties

Sec. 10. The circuit court:

- (1) shall administer the program established under section 2 of this chapter;
- (2) shall submit claims under IC 33-37-8-6 for the disbursement of funds; and
- (3) may enter into contracts with individuals, firms, and corporations to provide the treatment described by section 2 of this chapter.

As added by P.L.2-1991, SEC.18. Amended by P.L.98-2004, SEC.79.

IC 9-30-9-11 Repealed

(Repealed by P.L.137-1995, SEC.1.)